IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

J U D G M E N T

D.B. CIVIL WRIT PETITION NO.**8559/2006.**

Director General, Research and Development, Ministry of Defence, Department of Research and Development Organization, New Delhi.
Vs.
State of Rajasthan & Ors.

Date of Judgment:- **August 9, 2007.**

QUORUM
HON'BLE THE ACTING CHIEF JUSTICE MR.J.M. PANCHAL
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. Manoj Kumar Sharma,
Mr. Kapil Manoj Chanda and
Mr. P.K. Sharma for the petitioner.

Mr. Harshvardhan Nandwana, Deputy Government Advocate for the State-respondents.

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BY THE COURT (Per: J.M. Panchal, Actg.CJ.):

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By filing the instant petition under Article 226 of the Constitution of India, the petitioner i.e. Director General, Research and Development, Ministry of Defence, Department of

Research and Development Organization, New Delhi has prayed to issue a writ of mandamus directing the respondents to allot the land bearing Khasra No.1320 situated in Village Narhar, Tehsil Chirawa, District Jhunjhunu.

2) The petitioner is Research and Development Organization of the Ministry of Defence, Government of India. It is concerned for implementing the strategic plans of the Ministry of Defence for Indian Army. Pursuant to the policy of the Ministry of Defence, the petitioner submitted a representation dated May 16, 2006 to the Government of Rajasthan for allotment of 300 acres of land from Khasra No.1320 situated at Village Narhar, Tehsil Chirawa, District Jhunjhunu. As the petitioner did not receive any response from the Government of Rajasthan, it sent reminder dated June 5, 2006 to the respondent No.2. The Deputy Secretary, Government of Rajasthan, Revenue Department Group-III Jaipur informed the Collector Jhunjhunu vide letter dated September

18, 2006 that the land demanded by the petitioner fell within the prohibited category of allotment as stipulated in order dated March 29, 2003 rendered by the Division Bench of this Court in D.B.C.W.P. No.1852/2002. Thereafter, the respondent No.3 addressed a letter dated September 19, 2006 to the State Government to take action for exempting the land in question from the prescribed category for the purpose of allotment of the same to the petitioner. The petitioner claims to have apprised the Collector Jhunjhunu on September 21, 2006 about the decision of the High Court rendered in DBCWP No.1852/2002 by which prohibition prescribed by the Division Bench of this Court in DBCWP No.1852 of 2002 decided on March 29, 2003, was released in favour of O.N.G.C. Ltd. and requested to take appropriate steps for allotment of land to it. However, no action was taken by the respondents-authorities for allotment of the land to the petitioner. The petitioner has claimed that Oil & Natural Gas

Corporation Ltd. wanted the land, allotment of which was prohibited by the Court vide order dated April 29, 2003 and, therefore, D.B. Civil Misc.Application DR(J) No.2399/2006 was filed which was decided on May 8, 2006 and the State of Rajasthan was permitted to allot the land demanded by the ONGC including angore area for the purpose of exploration of oil and natural gas and, therefore, the same direction should be issued by the court in the instant petition. Under the circumstances, the petitioner has filed the instant petition and has claimed the reliefs reference of which has been made earlier.

3) On service of notice, Sub Divisional Officer Chirawa (Jhunjhunu) has filed affidavit in reply. In para 5 of the reply, it is mentioned that the petitioner requires the allotment of the land for the public purpose but in another matter being DBCWP No.1852/2002, the High Court has granted stay on the allotment of the Johad land for any other purpose and,

therefore, the respondents are not in a position to allot the land to the petitioner.

4) This court has heard the learned counsels for the parties at length and also considered the documents, forming part of the original petition.

5) From the record of the case, it is evident that in D.B. Civil Misc.Application DR(J) No.2399/2006 which was filed in DBCWP No.1852/2002, Oil & Natural Gas Corporation Ltd. wanted allotment of the land which was included in the angore area for the purpose of exploration of oil and natural gas. In view of the prohibition contained in the judgment delivered in DBCWP No.1852/2002, it was not possible for the State of Rajasthan to allot the land to the Oil & Natural Gas Corporation Ltd. Therefore, the said application was filed and the court vide order dated May 8, 2006 permitted the State of Rajasthan to allot the subject land including angore area for the purpose of exploration of oil and natural gas and directed

the parties to take care that environment or the flow of the river was not affected. The petitioner is concerned in implementing the strategic plans of the Ministry of Defence for Indian Army. The allotment of the land needed by the petitioner is of highest degree of public purpose and is in the interest of nation. The record does not indicate that the land demanded by the petitioner is being used for any public purpose and is in fact a non-utility land.

6) Under the circumstances of the case, this Court is of the opinion that the prayer made in the writ petition, deserves to be granted by directing the State of Rajasthan to allot the land in question to the petitioner.

8) For the foregoing reasons, the petition succeeds. The State of Rajasthan is permitted to allot the land as demanded by the petitioner. However, it is to take care by the petitioner and the respondents that the environment and flow of the river is not adversely effected subject to above referred to directions.

The rule is made absolute. There shall be no order as to costs.

(MOHAMMAD RAFIQ), J. **(J.M. PANCHAL), Actg. CJ.**

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